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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,743	03/06/2002	Tomoko Yoshida	1614.1223	5251
21171 7590 02/07/2007 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER ARAQUE JR, GERARDO	
			ART UNIT	PAPER NUMBER
			3629	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/07/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/090,743	Applicant(s) YOSHIDA, TOMOKO	
	Examiner Gerardo Araque Jr.	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 2001-190920, filed on June 25, 2001.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 1 – 3 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Geerlingss (US Patent 6,073,112)**.
4. In regards to **claim 1**, **Geerlings** discloses, "...communication system of the present invention accounts for individual shopping behavior of the consumer and tailors the communication accordingly (with respect to content and timing (i.e., when to contact the consumer)(Column 1 Lines 51 – 56)." Moreover, "the dynamic or continual resegmentation of customers based on changes in shopping activity/behavior ensures that pertinent and timely communications are made (automated) by the present invention system (Column 3 Lines 40 – 43)." Furthermore, "...the present invention communication system automates preparation and transmission of written and/or verbal communications based on behavior (e.g., shopping activity) of customers (Column 3 Lines 16 – 20)."

Geerlings fails to disclose the system to be used for visiting a hair salon.

However, Geerlings discloses a system for enhancing and improving communications from a merchant to his customers (Col. 3 L. 15 – 17). One skilled in the art would have found it obvious to use the system disclosed by Geerlings as an effective means of communicating information to its customers to visit a hair salon based on the customers prior behaviors.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to use the teachings of Geerlings as a means of communicating necessary visiting information to the merchants' customers.

5. In regards to **claim 2**, **Geerlings** discloses that the system, "...tailors the communication accordingly (with respect to content and timing (i.e., when to contact the consumer) (Column 1 Lines 54 – 56)." Moreover, the system determines the appropriate time to contact the individual based on, "...cumulative purchase behavior of a consumer, historic behavior or expected future behavior, or any combination thereof (Column 2 Lines 26 – 30)."

6. In regards to **claim 3**, as best understood by the examiner, **Geerlings** discloses that necessary information regarding the individual is stored in the database and is accessed when needed, such as retrieving the modified images of the individual that will be attached to the notification. Moreover, an "...Event History Subtable **26** is formed of records indicating the various so-called events **37**...with which a customer has been involved. That is, each record identifies (i) a customer by customer number, and (ii) an even **37c** by even number ("Event NR"). The even number serves as a cross reference

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to a record in the strategy database **21** where the even is predefined by the merchant. Column 6 Lines 50 – 57).

7. In regards to **claim 8**, Geerlings discloses wherein the second database stores indications of desired communication including indications of times for initiating communications and indications of contents of communications. As discussed above one skilled in the art would have found it obvious to use the system disclosed by Geerlings as an effective means of communicating information to its customers to visit a hair salon based on the customer's prior behaviors.

8. **Claims 4 – 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Geerlings (US Patent 6,073,112)** in view of **Blancato (US Patent 4,823,285)**.

9. In regard to **claims 4 – 7**, **Geerlings** discloses a computer system that gathers information, which is stored within 2 databases (Column 2 Lines 18 – 25), about an individual's shopping behavior and times the communication with the individual based the individual's shopping behavior (Column 1 Lines 51 – 56; Column 2 Lines 26 – 30). The first database stores identification and demographics of recipients while the second databases stores desired communication. It would be obvious to one of ordinary skill that the data stored in the databases do not necessarily need to be exactly the same information as is found in Geerlings, but to what would be suitable to the person using the system, such as the information disclosed by Blancato, which will be discussed later. Moreover, the system uses the information that was gathered about the individual in order to transmit information at the appropriate time interval that may interest the

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individual through various communication means (Column 5 Lines 39 - 46; Column 14 Lines 24 - 30).

However, Geerlings fails to show that the databases contain information of hairstyles that the individual would like.

Blancato discloses a method of capturing an image of an individual and digitally modifying the individual's current hairstyle with various hairstyles that the individual may be interested in having (Column 2 Lines 1 - 17). The image is then modified in order to place the image of the face and the new hairstyle together on a screen (Column 2 Lines 1 - 17). The various modifications are then stored and would obviously be held under file for later dates for when the individual would like to try something new and different.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include Blancato's method of storing information concerning various hairstyles interests, that an individual would want, with that of Geerlings so that when an automatic notification is sent to an individual for a haircut appointment, based on the individual's past record of periodic visits, can be attached with images of possible hairstyle that the individual may like.

Response to Arguments

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10. Applicant's arguments, see Page 6, filed 11/30/06, with respect to the rejection(s) of claim(s) 1 – 3 under 35 USC 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Geerlings under 35 USC 103.

Drawing Objections

11. The objections made toward the drawings have been withdrawn.

Specification Objections

12. The objections made toward the drawings have been withdrawn.

Rejection under 35 USC § 112, second paragraph

13. Rejections under 35 USC 112, second paragraph, toward claims 3 and 5 – 7 have been withdrawn.

Rejections under 35 USC § 102

14. The rejection of claims 1 – 3 under 35 USC 102 has been withdrawn. A new rejection under 35 USC 103 has been made and discussed above.

15. Applicant argues on page 6 that Geerlings does not teach or suggest, "producing direct mail containing suggestions of hairstyles." However, Geerlings does, indeed, disclose producing direct mail to its customers (Col. 2 L. 40 – 47; Col. 3 L. 24).

16. Applicant also argues on page 6 that Geerlings does not teach or suggest an, "expected date of visit of the customer is a predetermined period ahead." However, Geerlings discloses that the communications sent to the customer are based on customer behaviors (Col. 3 L. 16 – 20, 40 – 43). This allows for timely communications

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to be sent to the customer, including determining a date ahead of time based on previous customer history/behavior.

Rejections under 35 USC § 103

Applicant argues on page 7 that Blancato does not teach or suggest direct marketing. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Argument toward new claim 8

Response to applicant's new claim 8 has been discussed above.

Conclusion

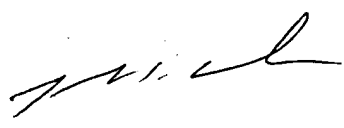
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GA
2/5/07



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